



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

190725



AUG - 6 2008

**PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Intertek Testing Services/Caleb Brett  
333 Dalziel Road  
Linden, NJ 07036

Attn: William J. Cherepon  
Health, Safety, and Environmental Manager

Re: LCP Chemicals Superfund Site, Linden, Union County, New Jersey

Request for Information Pursuant to the Comprehensive Environmental Response,  
Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq.

Dear Mr. Cherepon:

This letter seeks your cooperation in providing supplemental information and documents relating to the contamination of the LCP Chemicals Superfund Site located in the Tremley Point section of the City of Linden, Union County, New Jersey (the "Site" or the "LCP Site"). The Site is an approximate 26 acre parcel of land consisting of Lots 3.01, 3.02 and 3.03 in Block 587 on the current tax map of and located in the City of Linden, N.J. All three Lots are currently owned by the City of Linden.

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601, et seq. (also known as the "Superfund" law). For your information, a copy of the Superfund law may be found at [www.epa.gov/superfund/action/law/index.htm](http://www.epa.gov/superfund/action/law/index.htm).

EPA has documented the release and threatened release of hazardous substances into the environment at the Site. EPA is overseeing a cleanup action addressing the release and threat of release of hazardous substances, pollutants, or contaminants at the Site. This cleanup is being conducted pursuant to our authorities under the federal Superfund law.

Under Section 104(e) (2) of CERCLA, 42 U.S.C. Section 9604(e) (2), EPA has broad information gathering authority which allows EPA to require persons to provide information and/or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to the attached Request for Information to EPA **within thirty (30) calendar days of your receipt of this letter.**

While EPA seeks your cooperation in this investigation, your compliance with the attached Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included in the attached information request, including the requirement of supporting your claim of confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the material stored at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information; it is necessary that you promptly notify EPA.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

Your response to this Request for Information should be mailed to:

Frank X. Cardillo  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17th Floor

New York, New York 10007-1866


A copy of your reply should be sent to:

Jonathan Gorin  
New Jersey Remediation Branch  
Emergency Remediation and Response Division  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 19<sup>th</sup> Floor  
New York, New York 10007

If you have any questions regarding the Request for Information, or would like to discuss this matter with EPA, you may call Mr. Gorin at (212) 637-4361. Please direct all inquiries from an attorney to Mr. Cardiello at (212) 637-3148.

We appreciate and look forward to your prompt response to this matter.

Sincerely yours,



Raymond Basso  
Strategic Integration Manager  
Emergency and Remedial Response Division

Enclosures

## ATTACHMENT A

### INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

#### DIRECTIONS

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Request for Information. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Request for Information. Whenever in this Request for Information there is a request to identify a natural person or an entity other than a natural person, state, among other things, the person or entity's full name and present or last known address.
4. Identify Sources of Answers. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Inability to Answer or Provide Documents. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and telephone number and the reasons for your belief.
6. Documents. If anything is deleted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the deletion. If a document is requested but is not available, state the reason for its unavailability.

7. Continuing Obligation to Provide and to Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA.
8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of RCA, 42 U.S.C. § 6927(b), and 40 C.F.R. Part 2.203(b). To prove your claim of confidentiality, each document must separately address the following points:
  - a. the portions of the information alleged to be entitled to confidential treatment;
  - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
  - c. measures taken by you to guard against the undesired disclosure of the information to others;
  - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
  - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
  - f. whether you assert that disclosure of the information would be likely to result in substantial harmful effect on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "CONFIDENTIAL" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit in separate envelopes both a clean and a redacted version of any documents or response for which you make a claim of confidentiality.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

9. Disclosure to EPA Contractor. Information which you submit in response to this Request for Information may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. Part 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Request for Information to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Request for Information. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Request for Information.
10. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
11. Objections to Questions. If you have objections to some or all the questions within the Request for Information letter, you are still required to respond to each of the questions.

## DEFINITIONS

The following definitions shall apply to the following words insofar as they appear in this Request for Information.

1. The terms "you," "yours," and "Respondent" shall mean the addressee of this Request and shall include the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
2. The terms "your Company" or "Company" shall mean your company as it is currently named and constituted and all predecessors in interest of your company and all subsidiaries, divisions, affiliates and branches of your company or of its predecessors.
3. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
4. The term "Site" or the "the LCP Chemicals Superfund Site" shall mean the real property identified as Lots 3.01, 3.02 and 3.03 in Block 587 on the current tax map of and located in the City of Linden, N.J.; the Site is approximately 26 acres in size and is located in the Tremley Point section of the City of Linden, Union County, New Jersey.

5. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
6. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances. The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 C.F.R. Part 302.
7. The terms "hazardous waste" shall have the definition as that contained in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5).
8. The term "industrial waste" shall mean any solid, liquid, or sludge or any mixtures thereof which possess any of the following characteristics:
  - a. it contains one or more hazardous substances (at any concentration);
  - b. it is a hazardous waste;
  - c. it has a pH less than 2.0 or greater than 12.5;
  - d. it reacts violently when mixed with water;
  - e. it generates toxic gases when mixed with water;
  - f. it easily ignites or explodes;
  - g. it is an industrial waste product;
  - h. it is radioactive;
  - i. it is an industrial treatment plant sludge or supernatant;
  - j. it is an industrial byproduct having some market value;
  - k. it is coolant water or blowdown waste from a coolant system;
  - l. it is a spent product which could be reused after rehabilitation;
  - m. it is any material which you have reason to believe would be toxic if either ingested, inhaled, or placed in contact with skin; or
  - n. any pollutants or contaminants, any trash, garbage, refuse, containers, drums (regardless of contents or lack thereof) and/or any liquids, solids or sludges.
9. The term "identify" means, with respect to a natural person, to set forth:
  - a. a persons full name;
  - b. present or last known business and home addresses and telephone numbers; and
  - c. present or last known employer (include full name and address) with title, position, or business.

10. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
11. The term "entity" or "entities" refers to persons, individuals, companies, partnerships, or any other type of business association.
12. The term "Caleb Brett" means Caleb Brett (USA) Inc., d/b/a/ Intertek Testing Services/Caleb Brett.
13. The term "documents" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
14. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
15. The terms "material" or "materials" mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
16. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
17. The term "pollutant or contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents.
18. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.



ATTACHMENT B  
REQUEST FOR INFORMATION

1. Describe in detail the area on the LCP Site used by Caleb Brett during its operations at the Site.
  - a. Provide site drawings or maps displaying the Caleb Brett leasehold, if available.
  - b. Provide the Building number, address or other designation identifying the space which Caleb Brett leased in relation to the entire LCP Site.
  - c. Describe any facilities or equipment that Caleb Brett owned, leased, built or installed at the site.
  - d. Describe any construction or capital improvements conducted on the Site by Caleb Brett or related to the Caleb Brett operation.
2. In response to a prior EPA Request for Information, Caleb Brett stated that products were stored at the LCP Site, "subject to laboratory analysis." Did Caleb Brett conduct any testing or analysis of any products or other materials, received from clients, at the LCP Site?
3. If your answer to Question 2 above was "yes," describe;
  - a. the nature of the tests or analyses performed,
  - b. the procedure for conducting the tests or analyses,
  - c. how test equipment was cleaned,
  - d. how test/analysis samples or specimens were disposed.
4. In response to a prior EPA Request for Information, Caleb Brett stated that products were stored at the LCP Site, "pending client instructions." Describe in detail the nature of the instructions Caleb Brett would receive from its clients regarding materials stored at the LCP Site. Did Caleb Brett conduct any mixing or processing of chemicals at the LCP Site on behalf of any clients?
5. Did Caleb Brett or its personnel handle mercury or materials containing mercury or clean or wash off mercury from the surface of any materials at the Site in any manner including without limitation, in products, raw materials, waste materials, maintenance activities or housekeeping activities? If so, describe in detail the materials which contained the mercury and how Caleb Brett handled and disposed of such mercury or materials.
6. Did Caleb Brett test petroleum products for the presence of mercury at the LCP site? If so, describe;
  - a. the products that were tested,
  - b. how the testing was conducted on such products,
  - c. the number of products tested for mercury at the site;
  - d. how the tested products were handled and disposed of; and
  - e. how the mercury was handled and disposed of.
7. Did Caleb Brett test any of the LCP products for mercury at the LCP site? If so, describe;

- a. the products that were tested;
- b. how the testing was conducted on such products;
- c. the number of LCP products tested for mercury;
- d. how the tested products were handled and disposed of; and
- e. how the mercury was handled and disposed of.

8. Did Caleb Brett test any Kuehne Chemical Company products for the presence of mercury at the LCP site? If so, describe;

- a. the products that were tested;
- b. how the testing was conducted on such products;
- c. the number of Kuehne products tested for mercury;
- d. how the tested products were handled and disposed of; and
- e. how the mercury was handled and disposed of.

9. Did Caleb Brett test any Union Carbide or Praxair products for the presence of mercury at the LCP site? If so, describe;

- a. the products that were tested;
- b. how the testing was conducted on such products;
- c. the number of Union Carbide or Praxair products tested for mercury;
- d. how the tested products were handled and disposed of; and
- e. how the mercury was handled and disposed of.

10. Describe all waste streams generated by Caleb Brett at the site, and any hazardous substances contained therein, including without limitations volume and concentration.

11. Describe any wastewater or stormwater from the Caleb Brett leasehold or operations that discharged to South Branch Creek, to the ground, or to any ditches located on the site.

12. Describe the location, source, volume, duration and constituents of any cooling water, stormwater, process water, wastewater or other discharges from Caleb Brett's operations including, without limitation, discharges to run-off collection drums, dry wells, LCP sewer pipes and drainage ditches, and identify and provide copies of any permits that Caleb Brett may have obtained for such discharges.

13. Were Caleb Brett's operations at the Site ever the subject of litigation, administrative proceedings, notices of civil administrative penalty assessments, police complaints or similar actions? If so, describe the actions and produce all documents associated with them.

14. Provide the name, address and telephone number each person having knowledge of the facts relating to Caleb Brett's responses to the above questions.

15. Produce all documents containing any facts relating to Caleb Brett's responses to the above questions.

## CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of \_\_\_\_\_

County of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
SIGNATURE

Sworn to before me this  
day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Notary Public